

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMERICAN ITALIAN PASTA COMPANY)

Opposer,)

v.)

BARILLA G. E R. FRATELLI - SOCIETA)

PER AZIONI,)

Applicant.)

Opposition No. 91161373

TTAB

78136703

**OPPOSER'S NOTICE OF FILING OF
TESTIMONY DEPOSITIONS PURSUANT TO 37 C.F.R. § 2.125(c)**

Opposer hereby gives notice to Applicant that the certified depositions transcript of Timothy Webster, taken on November 9, 2006 in Kansas City, Missouri, including the exhibits introduced and offered therein have been filed with the U.S. Patent and Trademark Office, before the Trademark Trial and Appeal Board. This transcript and Exhibits 100, 102, 103 and 104 are being filed under seal pursuant to the Protective Order entered in this case. A redacted copy of the Webster deposition, excluding the confidential portion, which is redacted, is also appended for the public record to Opposer's Motion to File Deposition Transcript and Exhibits Under Seal, submitted contemporaneously. All of the exhibits, excepting Exhibits 100, 102, 103 and 104, are available for the public record.

Date: 12/8/06

Respectfully submitted,



Thomas H. Van Hoozer, Reg. No. 32761

Cheryl L. Burbach

HOVEY WILLIAMS LLP

2405 Grand Blvd., Suite 400

Kansas City, MO 64108

Phone: 816/474-9050

Fax: 816/474-9057

Attorney for Opposer

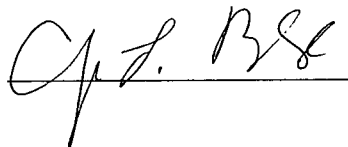
12-18-2006

CERTIFICATE OF MAILING

The undersigned hereby certifies that **OPPOSER'S NOTICE OF FILING OF TESTIMONY DEPOSITIONS PURSUANT TO 37 C.F.R. § 2.125(c)** was filed via First Class U.S. Mail addressed to:

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

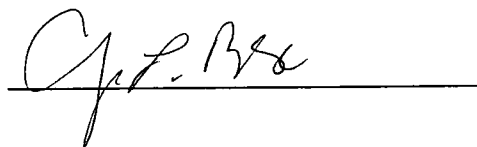
on this 8th day of December, 2006.

A handwritten signature in cursive script, appearing to read "G. F. Rothwell", written over a horizontal line.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by overnight mail, postage prepaid, this 8th day of December, 2006, on the following:

G. Franklin Rothwell
Brian E. Banner
ROTHWELL, FIGG, ERNST & MANBECK P.C.
1425 K Street, NW, Suite 800
Washington, DC 20005
Fax: (202) 783-6031

A handwritten signature in cursive script, appearing to read "G. F. Rothwell", written over a horizontal line.

Notice of Deposition Time Webster

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMERICAN ITALIAN PASTA COMPANY)

Opposer,)

v.)

BARILLA G. E. R. FRATELLI - SOCIETA)
PER AZIONI,)

Applicant.)

Opposition No. 91-161,373

NOTICE TO TAKE DEPOSITION

PLEASE TAKE NOTICE that, pursuant to 37 C.F.R. 2.123, Opposer American Italian Pasta Company, by and through its attorneys, will take the deposition of Tim Webster in Opposer's case-in-chief, during its testimony period, before a Notary Public, or other officer authorized to administer oaths, commencing Thursday, November 9, 2006, at 9:00 a.m. at the offices of Hovey Williams LLP, 2405 Grand Boulevard, Suite 400, Kansas City, Missouri.

You are invited to attend and cross-examine.

AMERICAN ITALIAN PASTA COMPANY

By: 

Thomas H. Van Hoozer, Reg. No. 32,761
Cheryl L. Burbach
Attorneys for Opposer
Hovey, Williams LLP
2405 Grand Blvd., Suite 400
Kansas City, Missouri 64108
(816) 474-9050

American Italian Pasta Company

v.

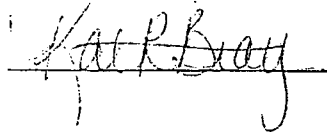
Barilla Alimentare S.P.A.
Opposition No. 91161373

Opposer's Exhibit 98

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice To Take Deposition was served by telefacsimile and first class mail, postage prepaid, this 24th day of October, 2006, on the following:

G. Franklin Rothwell
Brian E. Banner
ROTHWELL, FIGG, ERNST & MANBECK P.C.
1425 K Street, NW, Suite 800
Washington, DC 20005
Fax: (202) 783-6031

_____



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Electronic System for Trademark Trials and Appeals

Receipt

Your submission has been received by the USPTO.
The content of your submission is listed below.
You may print a copy of this receipt for your records.

ESTTA Tracking number: **ESTTA105883**

Filing date: **10/24/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91161373
Party	Plaintiff American Italian Pasta Company
Correspondence Address	THOMAS H. VAN HOOZER HOVEY WILLIAMS LLP 2405 GRAND BLVD. SUITE 400 KANSAS, MO 64108 clb@hoveywilliams.com
Submission	Plaintiff's Notice of Taking Testimony
Filer's Name	Thomas H. Van Hoozer
Filer's e-mail	tvh@hoveywilliams.com, clb@hoveywilliams.com, krb@hoveywilliams.com
Signature	/Thomas H. Van Hoozer/
Date	10/24/2006
Attachments	NOTICE OF DEPOSITION for Tim Webster.pdf (2 pages)(32859 bytes)

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Webster

Subpoena for Tim Webster

Ex. 99

Issued by the
UNITED STATES DISTRICT COURT

DISTRICT OF

KANSAS

American Italian Pasta Company, Opposer

SUBPOENA IN A CIVIL CASE

V.

Barilla G. E R.
Fratelli-Societa, Applicant

Case Number:¹

TO: Tim Webster
3700 W. 65th Street
Shawnee Mission, KS 66208

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

vey Williams LLP, 2405 Grand Blvd., Suite 400, Kansas City, MO 64131

DATE AND TIME

November 3, 2006 at 9:00 a.m.

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

October 24, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Thomas Van Hoozer, Hovey Williams LLP, 2405 Grand Blvd., Suite 400, Kansas City, MO 64108, (816) 474-9050

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

American Italian Pasta Company
v.

Barilla Alimentare S.P.A
Opposition No. 91161373
Opposer's Exhibit 99

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena is issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Webster

9/11/1997 Best Foods corresp. to Tim Webster

Ex. 101

Best Foods

a Division of CPC International Inc.
P.O. Box 8000, International Plaza
Englewood Cliffs, NJ 07632-9976

CPC
International

September 11, 1997

Mr. Timothy Webster
President and CEO
American Italian Pasta Company
1000 Italian Way
Excelsior Springs, MO 64024

Dear Tim:

I wanted to provide you with Best Foods' observations about AIPC's cost competitiveness from the standpoint of our having done considerable work to review the cost structure in the pasta industry, and the relative cost competitiveness of the various manufacturers. We examined both using our own knowledge and with some assistance from independent external consultants.

Our work involved first, an exhaustive review of the market position Mueller's occupied, and second, a task force approach to implement the action plan developed from that market analysis.

We knew that our costs were the highest in the industry. Mueller's brand pasta currently is manufactured under conditions which reflect a building that was originally constructed in 1918; it was constructed to take advantage of gravity, hence it has multiple floors, with relatively low ceilings; the designers of the plant not being able to even fathom the changes that have taken place in pasta manufacturing. While examining the pasta market we also had several conversations with pasta manufacturers to learn what we could about making a better pasta. Our Jersey City plant, while old, did represent the production method of several companies in the industry (e.g., Ronzoni), really up to the time that AIPC changed the market by bringing "Italian" pasta technology into North America.

Our efforts lead us to a clear conclusion that AIPC is at the forefront of pasta manufacturing, and has put in place a truly and fully integrated system for the production of superior quality product, and importantly has remained true to the "hyperplant" philosophy, as meaning: having scale in size and leveraging that scale to maximum efficiency, thereby attaining lowest cost.

Our findings were the following:

1. AIPC clearly had the lowest single facility cost in Columbia, SC. The integrity of the production philosophy, holding to the hyperplant concept, results in a cost structure that is several cents per pound below the next best facility in the industry, based upon our review of the plant configurations in the industry. Hershey, for example, does not own and operate the flour mill next to their plant, thus they surrender that potential cost advantage, nor have they held true to the hyperplant concept of a limited number of SKUs. AIPC labor rates are not the lowest, but the pounds per employee is clearly the best in the industry making AIPC incredibly efficient. You are to be commended for an upbeat, high performance work force at Columbia, and I hasten to add that Best Foods learned quickly that system wide, AIPC has on staff some of the most highly regarded pasta manufacturing professionals in the industry.
2. The cost structure at the Excelsior facility, while higher by nature than the Columbia facility, also was one of the best full service plants, in terms of cost, that we saw, in part because the mill located on site, took full advantage of the integrated process. Naturally, the plant system that AIPC possesses, makes AIPC overall the lowest cost producer in the industry to our knowledge.

American Italian Pasta Company

v.

Barilla Alimentare S.P.A.
Opposition No. 91161373
Opposer's Exhibit 101

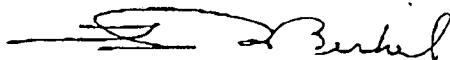
9/11/97

3. Data we received from other producers interested in quoting on our business made it quite clear that AIPC overall had the best cost structure of any of the independent pasta producers. This was the mission of our cost task force, to find the best producer, and a low cost. As we have indicated to you before, we believe we have found the best producer and the lowest cost.
4. Our evaluation of AIPC produced product, gave us a very clear sense that AIPC product was unsurpassed by any import or domestic (North American) manufactured pasta. Our direct external consumer research with Mueller's customers testing AIPC pasta gave us a high confidence level in the quality of AIPC pasta, and will allow us to change the Mueller's formulation to take advantage of 100% semolina product that we believe will reinforce our position as America's favorite pasta.

I felt that I should communicate these things to you in writing, to underscore the verbal comments I have frequently made to you, about how critical it is that we will have Mueller's manufactured by AIPC, and how independent our thinking was on this project. The team took a very detached approach, evaluating the industry and our business options with an open mind, and the interest of our shareholders, and the opportunity for growth in the pasta business as our primary drivers.

You should be proud of the job you have done, and we naturally are confident enough to expect new vigor for the Mueller's brand. We have heard many comments in testimony to AIPC's low cost status. You should take some pride in the fact that many of them were made to us, grudgingly, by your industry peers at the National Pasta Association Annual Meeting which happened to occur just after our production agreement was announced.

Very truly yours,



T. R. Berkel

Supply. Muellers; Pasta La Bella
(A05731)

Recommended Planogram




40055

~~CONFIDENTIAL COUNSEL ONLY~~

A05731

WILLIAMS 1602 SPACETT 1997
(A05018)

WESTERN CONTAINER FILE # AIPC.4 • DIE # 5 • 2+23/32 X 1+11/32 X 10+19/32 • 1 LB LONG GOOD • PRINTED SIDE



Mueller's
SPAGHETTI

A CHOLESTEROL FREE,
SODIUM FREE FOOD

Nutrition Facts
Serving Size 2 oz dry (56g) 1/8 package
Servings Per Package 8

Amount Per Serving		% Daily Value
Calories 210	Calories from Fat 10	
Total Fat 1g		2%
Saturated Fat 0g		0%
Polysaturated Fat 0g		0%
Monounsaturated Fat 0g		0%
Cholesterol 0mg		0%
Sodium 0mg		0%
Total Carbohydrate 42g		14%
Dietary Fiber 1g		4%
Sugars 2g		
Protein 7g		14%

Vitamins A, B1, B2, B6, C, E, K, P, and 13
STARCHES (WHEAT, TENDRY, MONOCLONAL, SODIUM) 100%
ACID (WHEAT, TENDRY, MONOCLONAL, SODIUM) 100%

INGREDIENTS: WHEAT, TENDRY, MONOCLONAL, SODIUM, ACID (WHEAT, TENDRY, MONOCLONAL, SODIUM) 100%
DISTRIBUTED BY: BEST FOODS DIVISION, CPC INTERNATIONAL INC., CALLEWOOD CLIFFS, NJ 07022-9978
MUELLER'S is a registered trademark of CPC International Inc.
© 1994 CPC International Inc.

Mueller's
AMERICAN FAVORITE PASTA
MADE FROM 100% SEMOLINA

Mueller's
SPAGHETTI

Quality Since 1867

NET WT 16 OZ (1 LB) 454g

Mueller's
SPAGHETTI

COOKING DIRECTIONS
1. Bring water to a rapid boil. Add salt to taste.
2. Add spaghetti, stirring to separate. Return to boil.
3. Cook 11 to 13 minutes or until desired tenderness.
4. Drain. Serve immediately.

CLASSIC
SPAGHETTI AND MEAT SAUCE

1. In a large pot, bring water to a rapid boil. Add salt to taste.
2. Add spaghetti, stirring to separate. Return to boil.
3. Cook 11 to 13 minutes or until desired tenderness.
4. Drain. Serve immediately.

Mueller's
SPAGHETTI

BRAND: MUELLER'S
PRODUCT: 16 OZ. SPAGHETTI

FOR COLOR BREAK ONLY, SEE ESTABLISHED
COLOR STANDARDS FOR ACTUAL COLOR.

PROJECT INFORMATION

Software Version #: ILLUSTRATOR 6.0
Date: 9/15/97 Circulation #: FINAL
Project #: 7-MUXX-4-2 P.O. #: 7964
Graphic Code: MU-00212-01-01
UPC: 23702-30712
Size: 16 OZ.
Package: Tenth drawing #:
Arch. Area To Bear Label:
Revision: NEW CARTON STRUCTURE
Add: nonstandard measure

BEST FOODS
Package Design Approval

	Name	Date
Graphic Design		
Product Manager		
Sales/Logistics		
Legal		
Trademark		
Consumer Services		
Marketing Director		

SOMERSET
Package Design Approval

	Name	Date
Graphic Design		
Technical Dept.		
Package Tech.		
Utility Assurance		

American Italian Pasta Company
v.
Barilla Alimentare S.P.A.
Opposition No. 91161373
Opposer's Exhibit 106

McNellie 1608. SPENCER : March 2001
(A05019)

WESTERN CONTAINER FILE # AIPC.4 • DIE # 5 • 2+23/32 X 1+11/32 X 10+19/32 • 1 LB LONG GOOD • PRINTED SIDE

American Italian Pasta Company

v.
Barilla Alimentare S.P.A
Opposition No. 9161373
Opposer's Exhibit 107

0.76

2+23/32

1+11/32

2+23/32

1+5/16

1+11/32

10+19/32

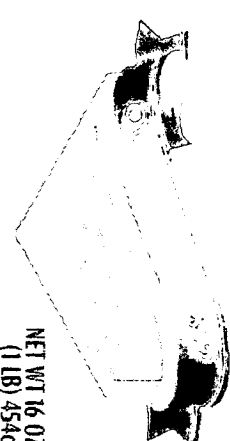
spaghetti

**A CHOLESTEROL FREE,
SODIUM FREE FOOD**

Mueller's

spaghetti

MADE FROM 100% SEMOLINA



NET WT 16 OZ
(1 LB) 454g

spaghetti

spaghetti

Nutrition Facts

Serving Size 1/2 cup (40g) 1/2 cup (40g)

Amount Per Serving

Calories 210	% Daily Value*
Total Fat 1g	2%
Cholesterol 0mg	0%
Sodium 0mg	0%
Total Carbohydrate 42g	8%
Protein 6g	12%

INGREDIENTS: SEMOLINA, WATER, OIL, SALT, POTASSIUM ACETATE, CITRIC ACID, MONOSODIUM GLUTAMATE, YEAST, LECITHIN, NATURAL FLAVOR.

DISTRIBUTED BY: American Italian Pasta Co., Fort Lauderdale, FL 33304

MADE IN ITALY

COOKING INSTRUCTIONS:

- Bring water to a rapid boil. Add salt to taste.
- Add spaghetti. Stirring to separate, cook for 10-12 minutes.
- Cook until al dente. Strain in colander.
- Sauce to taste. Serve immediately.

PREPARED BY: American Italian Pasta Co., Fort Lauderdale, FL 33304

100%

BRAND: MUELLER'S
PRODUCT: 16 OZ. SPAGHETTI

16 OZ

16 OZ

FOR COLOR BREAK ONLY. SEE ESTABLISHED COLOR STANDARDS FOR ACTUAL COLOR.

PROJECT INFORMATION

Software/Version #: ILLUSTRATOR 7.0.1
Data: 030899 RELEASE
Project #: 8-MU01-67-1 P.O. #: 2054
Graphic Code: MU-00212-C1-09
UPC: 29200-00212
Size: 16 OZ
Package Tech. drawing #: 3
Avail. Area To Bear Label:
Revisions: Mueller's Redesign

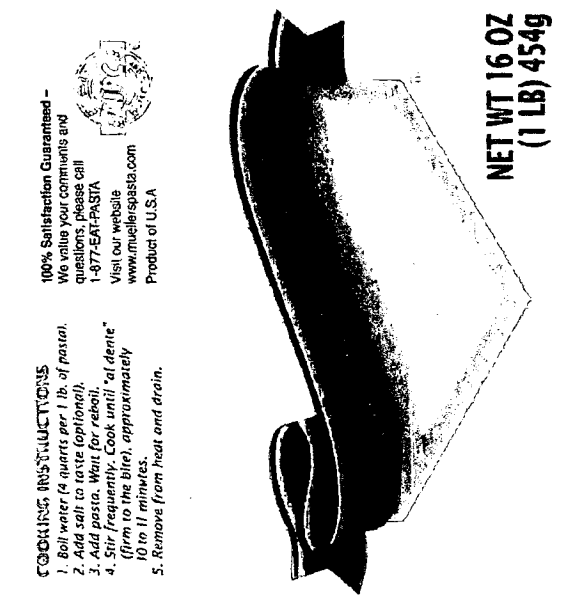
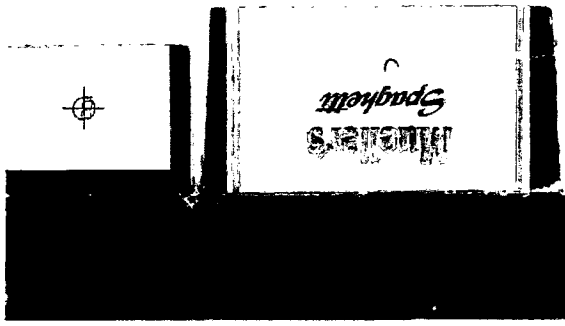
Creation Date: 4/26/09
Revision Date: 11/27/00

CPC-791H

Webster

Mueller's Spanghetti 1602.
(A05064-A05065)

Ex. 108



NET WT 16 OZ
(1 LB) 454g

100% Satisfaction Guaranteed -
We value your comments and
questions, please call
1-877-EAT-PASTA
Visit our website
www.muellerspasta.com
Product of U.S.A.

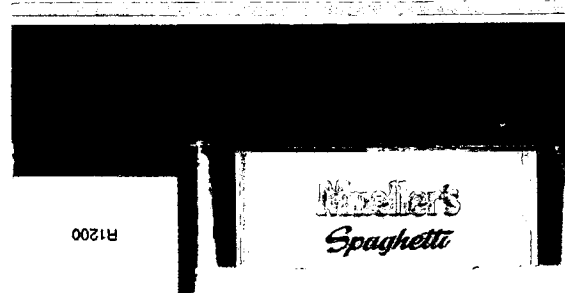
- COOKING INSTRUCTIONS**
1. Boil water 4 quarts per 1 lb. of pasta.
 2. Add salt to taste (optional).
 3. Add pasta. Wait for reboil.
 4. Stir frequently. Cook until "al dente"
firm to the bite, approximately
10 to 11 minutes.
 5. Remove from heat and drain.

APPROPRIATE COOKING TIME
10 to 11 minutes
Cook "al dente" (firm to bite)
for full flavor
COOKING GUIDELINES
1 lb. pasta serves 6-8

**Mueller's
Spaghetti**

AMERICAN FAVORITE PASTA
MADE FROM 100% SEMOLINA

Mueller's[®]
E N R I C H E D
Spaghetti



R1200

American Italian Pasta Company
v.
Barilla Alimentare S.P.A
Opposition No. 91161373
Opposer's Exhibit 108

401357

A CHOLESTEROL FREE.
SODIUM FREE FOOD

Mueller's

Nutrition Facts

Serving Size 2 oz. (56g/1/8 Box)
Servings Per Container 8

Amount Per Serving

Calories 210 Calories from Fat 10

% Daily Value*

Total Fat 1g 2%

Saturated Fat 0g 0%

Polyunsaturated Fat 0g

Monounsaturated Fat 0g

Cholesterol 0mg 0%

Sodium 0mg 0%

Total Carbohydrate 41g 14%

Dietary Fiber 2g 7%

Sugars 2g

Protein 7g

Vitamin A 0% Vitamin C 0%

Calcium 0% Iron 10%

Thiamine 30% Riboflavin 15%

Niacin 20% Folate 25%

*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate	Less than	300g	375g
Dietary Fiber	Less than	25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

INGREDIENTS: DURUM SEMOLA, NIACIN, FERROUS SULFATE (IRON), THIAMINE MONONITRATE, RIBOFLAVIN, FOLIC ACID.

Distributed By:
American Italian Pasta Co.
Excelsior Springs, MO 64024

MUELLER'S is a registered trademark of the
American Italian Pasta Company
©2001

Mueller's
Spaghetti

For over 130 years, people have enjoyed the great taste of Mueller's. Our Pasta cooks to perfect tenderness every time because it's made from 100% pure semolina milled from the highest quality durum wheat. That's why Mueller's is America's favorite pasta!

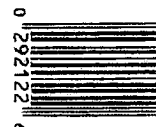
Mueller's

CLIP & SAVE!

- | | |
|--------------------------------|---|
| 1 lb lean ground beef | 2 eggs |
| 1/2 cup seasoned bread crumbs | 2 cloves garlic, minced |
| 1/2 cup grated Parmesan cheese | 1/2 tsp pepper |
| 1/3 cup chopped onion | 2 jars (30 oz each) Mueller's spaghetti sauce |
| 1/4 cup milk | 16 oz MUELLER'S spaghetti, cooked and drained |

- In large bowl combine first 8 ingredients. Shape into 20 (1 1/2-inch) meatballs.
- In 5-quart dutch oven bring spaghetti sauce to a boil. Add meatballs; return to boil. Reduce heat to low. Partially cover; simmer 25 minutes or until meatballs are cooked through.
- Toss spaghetti with 1 cup sauce; top with remaining sauce and meatballs.

MAKES 6 TO 8 SERVINGS PREP TIME: 40 MINUTES



CARTON MADE FROM 100% RECYCLED PAPERBOARD MINIMUM 35% POST-CONSUMER CONTENT

69.191

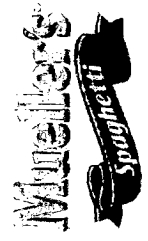
Mullers 1602. SPAGHETTI. 2002
(AUS021)

Webster

Fuller's No 2. SPAGHETTI: 2003
(~~200000~~ (A05066-A05067))

Ex. 110

⊕ R0902



- COOKING INSTRUCTIONS**
1. Boil water (4 quarts per 1 lb. of pasta).
 2. Add salt to taste (optional).
 3. Add pasta. Wait for reboil.
 4. Cook uncovered, stirring occasionally, 10 to 11 minutes or until desired tenderness.
 5. Remove from heat and drain.

AMERICAN ITALIAN PASTA
10 to 11 minutes
6-8 quarts water
1 lb. pasta serves 6-8
100% Satisfaction Guaranteed -
We value your comments and
please call (TOLL FREE)
1-877-541-6954
(1-877-526-7278)

Visit our website
www.muellerspasta.com
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Pasta Company ©2002
Product of U.S.A.

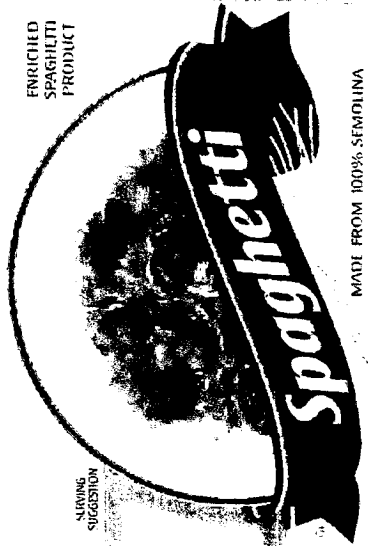


0 292122 6

AMERICAN ITALIAN PASTA
Mueller's
QUALITY SINCE 1867

NET WT 16 OZ (1 LB) 454g

ALWAYS
SUGGESTION



ENRICHED
SPAGHETTI
PRODUCT

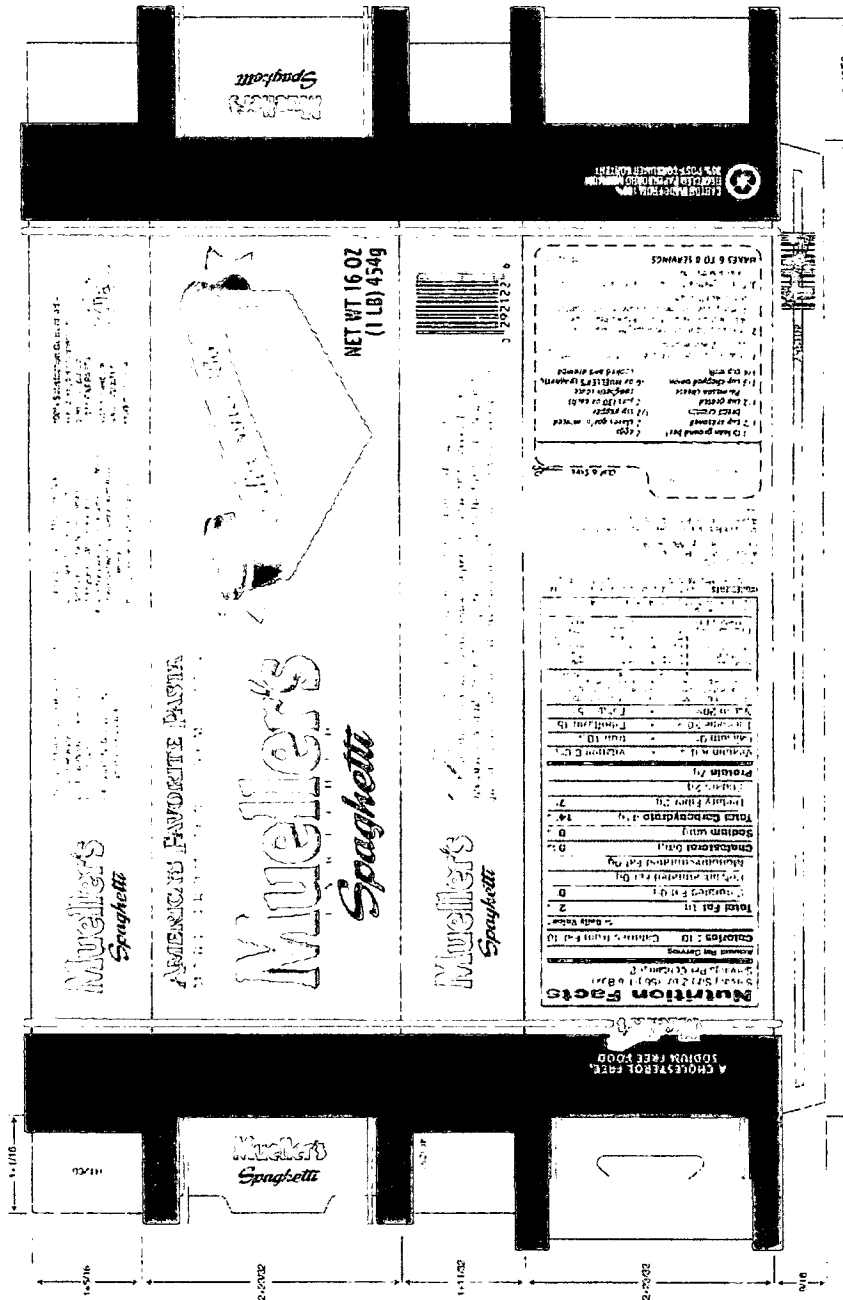
MADE FROM 100% SEMOLINA

American Italian Pasta Company
v.
Barilla Alimentare S.P.A
Opposition No. 91161373
Opposer's Exhibit 110

Webster

Mueller 13 16 02. PRAGHETTI. Sept. 2001
(A05020)

Ex. 111



10-1032

DATE: 01/03/01

TIME: 10:00

NAME: [REDACTED]

ADDRESS: [REDACTED]

CITY: [REDACTED]

STATE: [REDACTED]

ZIP: [REDACTED]

PHONE: [REDACTED]

EMAIL: [REDACTED]

PRODUCT: [REDACTED]

QUANTITY: [REDACTED]

PRICE: [REDACTED]

TOTAL: [REDACTED]

DATE: 01/03/01

TIME: 10:00

NAME: [REDACTED]

ADDRESS: [REDACTED]

CITY: [REDACTED]

STATE: [REDACTED]

ZIP: [REDACTED]

PHONE: [REDACTED]

EMAIL: [REDACTED]

PRODUCT: [REDACTED]

QUANTITY: [REDACTED]

PRICE: [REDACTED]

TOTAL: [REDACTED]

American Italian Pasta Company
v.
Barilla Alimentare S.P.A
Opposition No. 91161373
Opposer's Exhibit 111

Webster

Mulleers TV 03 041
(A01703)

Ex. 112

Mulleers TV 02



Muellers TV 03 04

Report Type: Trend
Report Completed: 08/04/2006 10:50:53 AM EST
Reported Time Period: 1/1/2003-12/31/2004

BRAND/MARKET/PROPERTY/TV CREATIVE	TOTAL DOLS (000)	UNITS	2003 DOLS (000)	UNITS
MUELLERS PASTA WTEV JACKSONVILLE				
MAKESAMEAL.COM/FAMILYATABLE1	0.2	4	0.2	4
MAKESAMEAL.COM/FAMILYATABLE2	0.2	4	0.2	4
WTEV TOTAL	0.3	8	0.3	8
MUELLERS PASTA TOTAL	0.3	8	0.3	8
GRAND TOTAL	0.3	8	0.3	8

American Italian Pasta Company

v.

Barilla Alimentare S.p.A

Opposition No 9/16/3-3

Opposer's Exhibit 112

Hilliers May 23 24
(A811698)



TNS media intelligence

Muellers Mag 03 04

Report Type: Trend
Report Completed: 08/04/2006 10:38:52 AM EST
Reported Time Period: 1/1/2003-12/31/2004

BRAND/MEDIA/PROPERTY/MAG CREATIVE	TOTAL DOLS (000)	UNITS	2004 DOLS (000)	UNITS
MUELLERS REDUCED CARB PASTA				
MAGAZINES				
BETTER HOMES & GARDENS				
THE PLATE ON THE LEFT IS NEW REDUCED CARB				
PASTA OR IS IT THE RIGHT?	143.5	10	143.5	10
BETTER HOMES & GARDENS TOTAL	143.5	10	143.5	10
COOKING LIGHT				
THE PLATE ON THE LEFT IS NEW REDUCED CARB				
PASTA OR IS IT THE RIGHT?	28.3	1	28.3	1
COOKING LIGHT TOTAL	28.3	1	28.3	1
FAMILY CIRCLE				
THE PLATE ON THE LEFT IS NEW REDUCED CARB				
PASTA OR IS IT THE RIGHT?	34.2	5	34.2	5
FAMILY CIRCLE TOTAL	34.2	5	34.2	5
WOMAN'S DAY				
THE PLATE ON THE LEFT IS NEW REDUCED CARB				
PASTA OR IS IT THE RIGHT?	38.7	5	38.7	5
WOMAN'S DAY TOTAL	38.7	5	38.7	5
MAGAZINES TOTAL	244.7	21	244.7	21
MUELLERS REDUCED CARB PASTA TOTAL	244.7	21	244.7	21
GRAND TOTAL	244.7	21	244.7	21

American Italian Pasta Company

v.

Barilla Alimentare S.P.A.
Opposition No. 91161373
Opposer's Exhibit 113

Websters ~~mag~~ May 01 02
(Add 1697)



TNS media intelligence

Muellers Mag 01 02

Report Type: Trend
Report Completed: 08/04/2006 10:37:48 AM EST
Reported Time Period: 1/1/2001-12/31/2002

BRAND/MEDIA/PROPERTY/MAG CREATIVE	TOTAL DOLS (000)	UNITS	2001 DOLS (000)	UNITS	2002 DOLS (000)	UNITS
MUELLERS PASTA MAGAZINES						
BETTER HOMES & GARDENS						
DINNER IS YOUR SHOW. DON'T SERVE A RE-RUN.	216.7	22			216.7	22
BETTER HOMES & GARDENS TOTAL	216.7	22			216.7	22
COOKING LIGHT						
DINNER IS YOUR SHOW. DON'T SERVE A RE-RUN.	37.4	1			37.4	1
COOKING LIGHT TOTAL	37.4	1			37.4	1
PARENTS						
DINNER IS YOUR SHOW. DON'T SERVE A RE-RUN.	35.7	1			35.7	1
PARENTS TOTAL	35.7	1			35.7	1
SOUTHERN LIVING						
DINNER IS YOUR SHOW. DON'T SERVE A RE-RUN.	93.9	2			93.9	2
SOUTHERN LIVING TOTAL	93.9	2			93.9	2
MAGAZINES TOTAL	383.7	26			383.7	26
MUELLERS PASTA TOTAL	383.7	26			383.7	26
MUELLERS PASTA LABELLA PASTA MAGAZINES						
BETTER HOMES & GARDENS						
GREAT CHEFS STUDY FOR YEARS. WITH OUR RECIPES						
YOU CAN CATCH UP IN MINUTES.	216.7	22			216.7	22
SPAGHETTI IS FINE. BUT SOONER OR LATER YOU'LL						
GET INTO THE TWISTED STUFF.	397.9	22	397.9	22		
BETTER HOMES & GARDENS TOTAL	614.6	44	397.9	22	216.7	22
COOKING LIGHT						
GREAT CHEFS STUDY FOR YEARS. WITH OUR RECIPES						
YOU CAN CATCH UP IN MINUTES.	65.7	1	65.7	1		
SPAGHETTI IS FINE. BUT SOONER OR LATER YOU'LL						
GET INTO THE TWISTED STUFF.	37.4	1			37.4	1
COOKING LIGHT TOTAL	103.0	2	65.7	1	37.4	1
PARENTS						
GREAT CHEFS STUDY FOR YEARS. WITH OUR RECIPES						
YOU CAN CATCH UP IN MINUTES.	64.2	1	64.2	1		
MAKING PASTA IS AN ART.	35.7	1			35.7	1
PARENTS TOTAL	100.0	2	64.2	1	35.7	1
SOUTHERN LIVING						
LOOKING FOR THE PERFECT COOKBOOK?						
MAKING PASTA IS AN ART.	53.1	1	53.1	1		
SPAGHETTI IS FINE. BUT SOONER OR LATER YOU'LL	124.6	1	124.6	1		
GET INTO THE TWISTED STUFF.						
SOUTHERN LIVING TOTAL	93.9	2			93.9	2
MAGAZINES TOTAL	271.6	4	177.6	2	93.9	2
MUELLERS PASTA LABELLA PASTA TOTAL	1,089.2	52	705.5	26	383.7	26
GRAND TOTAL	1,472.9	78	705.5	26	767.5	52